

CSD 1161 [05/15/03]

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## UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA  
 325 West "F" Street, San Diego, California 92101-6991

In Re

Stephen J. Lewis and Shelly L. Lewis

Debtor.

BANKRUPTCY NO. 17-04699-CL13

HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR  
 WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE  
 PASS-THROUGH CERTIFICATES SERIES 2006-AR11

Moving Party

RS NO. EAT-1

Stephen J. Lewis and Shelly L. Lewis

Respondent(s)

Hearing Date: April 25, 2018  
 Hearing Time: 2:00pm

AMENDED

## OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY

☒ REAL PROPERTY ☐ PERSONAL PROPERTY

Respondent in the above-captioned matter moves this Court for an Order denying relief from the automatic stay on the grounds set forth below.

1. A Petition under Chapter ☐ 7 ☐ 11 ☐ 12 ☒ 13 was filed on 08/03/2017.
2. Procedural Status:
  - a. ☒ Name of Trustee Appointed (if any): Thomas H. Billingslea, Jr.
  - b. ☒ Name of Attorney of Record for Trustee (if any): Kathleen A. Cashman-Kramer
  - c. ☐ \*Prior Filing Information:  
 Debtor has previously filed a Bankruptcy Petition on: \_\_\_\_\_.  
 If applicable, the prior case was dismissed on: \_\_\_\_\_.
  - d. ☒ (If Chapter 13 case): Chapter 13 Plan was confirmed on 03/01/2018 or a confirmation hearing is set for \_\_\_\_\_.
3. \*Number of unsecured creditors N/A. Amount of unsecured debt \$ \_\_\_\_\_.
4. \*Last operating report filed: N/A
5. \*Disclosure statement: Filed? (yes/no) N/A. Approved? (yes/no) \_\_\_\_\_.  
 If yes, date of plan confirmation hearing: \_\_\_\_\_.

\_\_\_\_\_  
 \*Only required if respondent is the debtor.

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Respondent alleges the following in opposition to the Motion:

1. ☒ The following real property is the subject of this Motion:
- a. Street address of the property including county and state:  
3975 Via Palo Verde Lago, Alpine, CA 91901  
San Diego County
- b. Type of real property (e.g., single family residence, apartment building, commercial, industrial, condominium, unimproved):  
Single Family Residence
- c. Legal description of property is attached as Exhibit A.
- d. \*\*Fair market value of property: \$ 795,000.00
- e. \*\*Nature of Respondent's interest in the property: Fee simple
2. ☐ The following personal property is the subject of this Motion (*describe property*):
- a. \*\*Fair market value of property: \$ \_\_\_\_\_
- b. \*\*Nature of Respondent's interest in the property: \_\_\_\_\_
3. Status of Movant's loan:
- a. Balance owing on date of Order for Relief: \$ 647,045.44
- b. Amount of monthly payment: \$ 4,914.52
- c. Date of last payment: 12/22/2017
- d. If real property,
- (1) Date of default: 07/01/2016
- (2) Notice of Default recorded on: 11/29/2016
- (3) Notice of Sale published on: 03/08/2017
- (4) Foreclosure sale currently scheduled for: N/A
- e. If personal property,
- (1) Pre-petition default: \$ \_\_\_\_\_ No. of months: \_\_\_\_\_
- (2) Post-petition default: \$ \_\_\_\_\_ No. of months: \_\_\_\_\_
4. (*If Chapter 13 Case, state the following:*)
- a. Date of post-petition default: 11/01/2017
- b. Amount of post-petition default: \$ 20,823.48
5. Encumbrances:
- a. Voluntary encumbrances on the property:

Lender Name	Principal Balance	Pre-Petition Arrearages Total Amount - # of Months		Post-Petition Arrearages Total Amount - # of Months	
1st: Movant	647,045.44	65,388.81	14	20,823.48	5
2nd: Robert Thomas	90,000.00				
3rd: SD County	430.30				
4th:					
Totals for all Liens:	\$ 737,475.74	\$ 65,388.81		\$ 20,823.48	

\*\*Separately filed Declaration required by Local Bankruptcy Rule 4001-4.

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- b. ☒ Involuntary encumbrances of record (e.g., tax, mechanic's, judgment and other liens, lis pendens):  
☐ See attached page, if necessary.

6. Relief from the automatic stay should not be granted because:

- a. ☒ Movant's interest in the property described above is adequately protected.
- b. ☒ Debtor has equity in the property described above and such property is necessary to an effective reorganization.
- c. ☐ The property is not "single asset real estate", as defined in 11 U.S.C. § 101(51B).
- d. ☐ The property is "single asset real estate", as defined in 11 U.S.C. § 101(51B), and less than 90 days (or \_\_\_\_\_ days ordered by this court) have passed since entry of the order for relief in this case, or
- (1) the Debtor/Trustee has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or
- (2) the Debtor/Trustee has commenced monthly payments to each creditor whose claim is secured by the property (other than a claim secured by a judgment lien or by an unmatured statutory lien) which payments are equal to interest at a current fair market rate on the value of each creditors' interest in the property.
- e. ☒ Other (specify): ☐ See attached page.

Debtors seek to cure any post-petition delinquency through an adequate protection agreement.

When required, Respondent has filed a separate Declaration pursuant to Local Bankruptcy Rules 4001-4.

Respondent attaches the following:

1. ☒ Other relevant evidence:  
See Declaration of Debtors in Support of Opposition to Motion for Relief from Automatic Stay
2. ☐ (Optional) Memorandum of points and authorities upon which the responding party will rely.

WHEREFORE, Respondent prays that this Court issue an Order denying relief from the automatic stay.

Dated: 04/19/2018

/s/ Adam B. Arnold  
[Attorney for] Respondent

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EXHIBIT "A"

Parcel A:

Lot 42 of Palo Verde Ranch East, in the County of San Diego, State of California, according to Map thereof No. 6929, filed in the Office of the County Recorder of San Diego County, May 9, 1971.

Parcel B:

An easement for ingress and egress over, along and across that portion of Lot 43 of Palo Verde Ranch East, in the County of San Diego, State of California, according to Map thereof No. 6929, filed in the Office of the County Recorder of San Diego County, May 9, 1971, described as follows:

Beginning at the Northeasterly corner of Lot 44 of said Map No. 6929; thence along the Northerly line of said Lot 43; North  $80^{\circ}00'00''$  East, 30.00 feet to the Northeasterly corner thereof; thence along the Easterly line of said Lot 43, South  $10^{\circ}00'00''$  East, 380.00 feet; thence leaving said Easterly line, Northwesterly in a straight line to the Southeasterly corner of said Lot 44; thence along the Easterly line of said Lot 44; North  $10^{\circ}00'00''$  West 345.00 feet to the point of beginning.